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7 **UNITED STATES DISTRICT COURT**  
8 **DISTRICT OF NEVADA**  
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10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 ROBERT DAVID KAHRE, *et al.*,

14 Defendants.  
15

Case No. 2:10-CV-01198-KJD-LRL

**ORDER**

16 Presently before the Court is Defendant Richard Wellman's Motion to Dismiss (#4). The  
17 United States filed a response in opposition (#6). Defendant John B. Nelson filed a Joinder (#11) to  
18 Wellman's motion. Wellman then filed a Joinder (#12) to Nelson's joinder. The United States filed  
19 opposition (#13/14) to the joinders. Defendant Nelson filed a reply (#20) in support of his joinder.

20 To the extent that Defendants seek dismissal under Federal Rule of Civil Procedure 12(b)(1),  
21 the motion is denied. Defendants misinterpret 28 U.S.C. § 1345. The district courts have original  
22 jurisdiction of civil suits commenced by the United States. The motion to dismiss based upon  
23 improper venue is denied, because the complaint alleges that a substantial part of the acts or  
24 omissions giving rise to the claim occurred in Nevada. See 28 U.S.C. §1391(b)(2). The remainder  
25 of Defendants' arguments are merely disagreements with the facts asserted by Plaintiff. When ruling  
26 upon a motion to dismiss under Rule 12(b)(6), "all well-pleaded allegations of material fact are taken

1 as true and construed in a light most favorable to the non-moving party.” Wyler Summit Partnership  
2 v. Turner Broadcasting System, Inc., 135 F.3d 658, 661 (9th Cir. 1998) (citation omitted).  
3 Accordingly, Defendants’ motions to dismiss based on their factual arguments are dismissed,  
4 because Plaintiff’s factual allegations plausibly state a claim to relief. See Ashcroft v. Iqbal, 129 S.  
5 Ct. 1937, 1949 (2009) (citing Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)).

6 Finally, Defendants’ contentions that the United States has failed to join indispensable  
7 parties, particularly the Department of the Interior and the Bureau of Land Management, are absurd.

8 Accordingly, IT IS HEREBY ORDERED that Defendant Richard Wellman’s Motion to  
9 Dismiss (#4) is **DENIED**;

10 IT IS FURTHER ORDERED that Defendant Nelson’s Motion to Dismiss (#11) , titled  
11 Joinder, is **DENIED**.

12 DATED this 21<sup>st</sup> day of March 2011.

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16 Kent J. Dawson  
17 United States District Judge  
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